

Special Called Meeting
Bolivar City Council
Monday February 24, 2025
6:00 p.m.

The Bolivar City Council met in a Special Called Session Monday February 24, 2025, for the purpose of Bolivar City Charter, Article 3, Section 3.10: Political Activity Prohibited.

Present:

Mayor McTizic
Councilmember Brown
Councilmember Golden
Councilmember Lowe
Councilmember McKinnie
Councilmember Miller
Councilmember Rhea
Councilmember Williams
Councilmember Woods

Others present: Attorney Kevin Snider, Charity Howell, Assistant City Clerk and Recorder, Sarah Rice, Mick Vinson, Brenda Woods, and Barrett Stevens.

Mayor McTizic called the special called meeting to order. The mayor asked Councilmember Woods to open the meeting with prayer followed by the Pledge Allegiance. Mayor McTizic asked for any public comments and there were none.

Mayor McTizic stated that the reason for this meeting was Councilmember Miller asked for the special called meeting to address the Bolivar City Charter, Article 3, Section 3.10: Political Activity Prohibited. This article states that no city employee or council member can run for Mayor without resigning from their current position. This article was put in motion March 26, 1996. Mayor McTizic excused himself from the conversation and turns the floor over to City attorney Kevin Snider. Mr. Snider addresses the mayor and council as to what he sees the charter as. We are looking at a resign to run charter. To run for a position, you must resign from a position. Once your charter is adopted by the legislature it is the law of your city. TN Code section 7-51-1501 is a state law code that protects an employee's right to run for office. Mr. Snider says there has been no court in the state of Tennessee that has interpreted this law or says who will enforce it and that there is no answer to that, that he can find. Section 5.03 in our charter says in any violations to the charter you are committing a criminal act with a misdemeanor and a fine of no more than \$50.00 and until the charter is changed it is still the law and we have to uphold it. Mr. Snider's recommendation is that it is left up to the council.

1. What do you want to do so he can tell the election commission?

Ms. Miller's question for the attorney is, City Charter, State Law or U.S. Constitution Which one of these carries the most weight? Mr. Snider answered, obviously the U.S. Constitution. The city charter is considered state law, if you violate the charter, you are violating state law. Ms. Miller has been advised that a person's 1st and 14th amendment rights are being violated by not having the opportunity to pursue the same opportunities as everyone else would. She asks, hypothetically if someone was not

allowed to run for a position would they have grounds to sue the city? Mr. Snider said, "In my legal opinion I do not think we should be giving legal opinions to the Hardeman County Election Commission. For one that is their job not the City of Bolivar's job to determine who is qualified to be put on a ballot or not." Mr. Snider goes on to say he doesn't understand what the purpose and intent of passing this law in 1996. Ms. Miller's comment was that it was put into place to sabotage someone's political ambition. Mr. Williams comments that State law 7-51-1501 and our city charter contradict each other. Mr. Snider's reply to that is that it is broader than that. It protects the rights of the employee to participate in political activities giving them the same rights as other citizens. From a legal stand point, which is Snider's opinion, He doesn't think it could be enforced because it would be an equal protection argument and directly contrary to that statute, but no court has ever tried this case and no one has argued against it. Mr. Snider states he would hate to see the City of Bolivar get in the middle of some kind of fight like this.

Mr. Williams asks, so basically what you are saying if we do nothing, we make no action, then it would go on and nothing would happen and Ms. Miller would be put on the ballot? That would not be our call stated Mr. Snider. Mr. Williams asks if it would be left up to the Hardeman County Election Commission at this point? Mr. Snider replied in his opinion it would be. Ms. Miller directed her comment to Mr. Snider asking if Mrs. Amber Moore remembered that this was on here and that she initiated this? Mr. Snider said that Mrs. Moore had contacted him. Ms. Miller goes on to say that she thinks that some places ignore the laws and some people have that statute and don't do anything about it. Mr. Snider's response is; it is always that way unless you have to get involved with something, why bother? In the two issues Snider has outlined

1. He would suggest the city do nothing
2. He would issue a response to the Election Commission that the Charter says what it says and this matter is left up to them.

Mr. Woods ask, if the violation on this matter was a misdemeanor with a \$50.00 fine, would there possibly be jail time? Mr. Snider replied, yes, the misdemeanor and fine are in the charter but it states nothing about jail time. If so, who would enforce it? Mr. Williams brings up that former Mayor Barrett Stevens is in the audience and he could maybe give some insight on this matter. Former Mayor Stevens asked if he is correct in the Election Commission coming in and saying; because Ms. Miller had not resigned, they couldn't put her on the ballot? Ms. Miller response was no, that Mrs. Moore called her and said she could not accept Ms. Miller's petition, that she would have to resign. Ms. Miller explained to Mrs. Moore she didn't understand how that could be because other council people have run for office in the past and that's when it came up on when I came into office that I would have to resign. Former Mayor Stevens explains; that is what the charter says and also explains Ms. Miller could have resigned one day and had her petition excepted the next day. He also states that they are not denying her the right to run just that you were not schooled in the fact before you could run. Ms. Miller's response is she could resign or challenge it because she thinks it is unconstitutional. Those are her options she thinks. Former Mayor Stevens thanks the council for listening to him and Ms. Miller cuts in saying whomever put that in the charter she feels that it is a flawed document, flawed statute. Mr. McKinnie addresses former Mayor Stevens says we appreciate your opinions but you didn't answer the question! Mr. McKinnie tells Mr. Stevens he went all around the question and didn't answer what was asked. "I want to know why it was put in there?", asked Mr. McKinnie. Former Mayor Stevens says it was changed at the time to do a lot of house cleaning to our charter. He also states that, if he were planning to run for office, I at least would plan 6 months prior to running to make sure I had all things in order. Mr. McKinnie and Ms. Miller both commented again that former Mayor Stevens still never answered their question. Ms. Miller commented that maybe Brenda Woods would know why. Mr. McKinnie then asked Ms. Woods to answer the question that was asked. Ms. Woods state that the charter was changed because of her,

because they didn't want her to run. She did run as a council member for mayor. Ms. Woods stated that she did talk to Mrs. Moore but she would not disclose the conversation because it was not nice. She thinks that we allowed Mrs. Moore to run the council business, Mrs. Moore is paid to run the Election Commission and not to be in the business of the city. Ms. Woods agrees with the attorney word for word. Ms. Woods states to Mr. McKinnie to answer your question they changed the charter because of me, because they are scared. Mr. McKinnie addresses the city attorney and asks if we leave this matter alone tonight does it go back to the election commission?

Mr. Snider suggests 2 things:

1.If you do something tonight...

- a. Vote to do nothing or leave it up to the election commission
- b. Vote to begin the process to change the charter.

2.Respond to the Election Commission with something to the effect that the charter says what it says, we disagree with it and we will begin the process to change to it. The ultimate decision is the Election Commissions not ours.

Mr. Snider is not sure why the election commission needs something from him on this matter. Mr. McKinnie interrupts saying "Just so they can go on and take her off." Mr. Snider finishes with; it does not fall under the duties of the city to interpret weather or not someone should be in an election that is managed by the county. Mr. McKinnie's problem with this 1996 charter problem is that with Mr. Golden, Ms. Rhea, Mr. Brown, and Mr. Woods could run now as mayor and still stay on. Mr. Snider responded correct as it is written now. When I'm speaking as we, Mr. Lowe, myself, Ms. Miller and Mr. Williams we will get penalized because we are not in this voting cycle. Mr. McKinnie states that is not fair and he know that any federal court would say that is not fair either. You either have to give us ALL or none at ALL period. Mr. Snider agreed with Mr. McKinnie that it should be all or nothing, but it's neither here nor there it doesn't change the law as it is currently written right now. Mr. McKinnie said, "when a law is made it's because someone had done something so they change the law." Mr. Snider asks him why is it in so many cities? That's what is strange to him. Mr. McKinnie states, "he isn't worried about what other cities do. I live in Bolivar. I represent the City of Bolivar and don't care about the other cities and towns. It doesn't make sense for us all to not be on the same page."

Mr. Brown ask; with the proposal that failed to pass making the election on even years would that have helped the entire council? Mr. Snider replied he had not done the math on that matter. Mr. McKinnie and Ms. Miller both replied no it would not have helped. Mr. Snider thinks this law is unfair, but as it is currently written, we have to uphold it because it the law. Ms. Miller says, "the only way laws change is when they get challenged." Mr. Snider replied correct. Ms. Miller says, "if we have to be the city-municipality that challenges this and we take it to the state, take it to where ever it needs to go I don't have a problem with that because right is right and weather you support me on this council or think I should run or not. What is right and what if fair is clear. If it was another councilmember I would be just as upset. As a council, if we don't stand up for what is right and fair for one another how are we to support what is right and fair for everybody else in this state? Just because it is on a piece of paper, pieces of paper get changed all the time. Ms. Miller is challenging the council to stand up and make a change. Councilmember Miller makes a motion, second by Councilmember McKinnie that we advise the election commission that She will be on the ballot and that we are in the process of taking down that unconstitutional provision out of our charter.

Mr. Woods questions, after hearing both sides tonight the violation is why this was done. Why tonight? Has this matter never come up before? Ms. Miller replies this has come up because the deadline for petitions to be turned in by this Thursday February 27, 2025. Mr. Golden asks does it take 30 days to make these changes? Mr. Snider replies no; the charter cannot be changed this year even if we wanted to. Mr. Golden goes on to ask, if we do this vote, will we be in violation of the charter and can we be sued? Mr. Snider replies potentially as it is written, yes. The question is who would do that and how

would it be enforced? He is not sure. Mr. Brown states that voting “yes” goes against the charter and “no” goes with the charter. Mr. Lowe ask has anyone ever run like this before? Mayor McTizic answered no giving the example when Ms. Woods ran. She ran for both council and mayor. Ms. Miller would be the first for this matter. Ms. Miller commented that other people probably would have but this statute probably deterred them and they would be like it would take a year to change it, oh well, I won’t do anything about it. It’s fine, let’s do it, let’s vote! Every body needs to make their own decision. Mr. Williams asks as a law enforcement officer he has a few questions. “Say we do nothing at all, has Mrs. Moore said if she is going to include or exclude Ms. Miller from the ballot? Mr. Snider replied no, she needs a response from him as our attorney, by Thursday of that week. Ms. Rhea asks, why is it our job to tell Ms. Moore what to do? Mr. Sniders recommendation is to not do anything. Mr. Williams asks if they vote against the charter that would be a misdemeanor on their record. Mr. Snider replied “yes” as the charter currently reads. If you do vote in favor of this you will be in violation as a council member against the city charter and I advise you not to do that. Mr. Snider informs the council that he has never been in a case where a city violates their own charter. Mr. Williams states that he is not comfortable with this weight being put on the councils’ shoulders. With that being said Ms. Miller resends her applied motion to send a letter to the Election Commission.

Councilmember Williams makes a motion, second by Councilmember Lowe that the city attorney construct a letter to the Hardeman County Election Commission that the City Council takes no side on this matter and turns the decision over to the election commission. All voted as follows:

Councilmember Brown- No
Councilmember Golden-No
Councilmember McKinnie-Yes
Councilmember Miller-Yes
Councilmember Rhea-Yes
Councilmember Williams-Yes
Councilmember Woods- Abstained

Former Mayor Stevens had some more questions and Mr. McKinnie called to end questioning. Councilmember McKinnie made a motion, second by Councilmember Miller to end the questioning. All voted “Aye.”

With no further business to discuss, Councilmember Miller made a motion to adjourn, seconded by Councilmember Rhea. All vote “Aye.”

Attest:

Mayor

City Clerk and Recorder

